

EXTRADITION

Treaty and related note signed at Bucharest July 23, 1924
Senate advice and consent to ratification February 10, 1925
Ratified by Romania February 24, 1925
Ratified by the President of the United States February 26, 1925
Ratifications exchanged at Bucharest April 7, 1925
Entered into force April 7, 1925
Proclaimed by the President of the United States April 14, 1925
*Supplemented by treaty of November 10, 1936*¹
*Revived (after World War II) February 26, 1948,*² *pursuant to article*
*10 of treaty of peace signed at Paris February 10, 1947*³

44 Stat. 2020; Treaty Series 713

TREATY

The United States of America and His Majesty the King of Rumania desiring to promote the cause of justice, have resolved to conclude a treaty for the extradition of fugitives from justice between the two countries and have appointed for that purpose the following Plenipotentiaries:

The President of the United States of America, Mr. Peter Augustus Jay, Envoy Extraordinary and Minister Plenipotentiary of the United States in Rumania: and

His Majesty, the King of Rumania, Mr. I. G. Duca, Minister for Foreign Affairs:

Who, after having communicated to each other their respective full powers, found to be in good and due form, have agreed upon and concluded the following articles:

ARTICLE I

It is agreed that the Government of the United States and the Government of Rumania shall, upon requisition duly made as herein provided, deliver up to justice any person, who may be charged with, or may have been convicted of, any of the crimes specified in Article II of the present

¹ TS 916, *post*, p. 423.

² *Department of State Bulletin*, Mar. 14, 1948, p. 356.

³ TIAS 1649, *ante*, vol. 4, p. 403.

Treaty committed within the jurisdiction of one of the High Contracting Parties, and who shall seek an asylum or shall be found within the territories of the other; provided that such surrender shall take place only upon such evidence of criminality, as according to the laws of the place where the fugitive or person so charged shall be found, would justify commitment for trial if the crime or offense had been there committed.

ARTICLE II

Persons shall be delivered up according to the provisions of the present Treaty, who shall have been charged with or convicted of any of the following crimes:

1. Murder, comprehending the crimes designated by the terms parricide, assassination, manslaughter when voluntary, poisoning or infanticide.
2. The attempt to commit murder.
3. Rape, abortion, carnal knowledge of children under the age of twelve years.
4. Abduction or detention of women or girls for immoral purposes.
5. Bigamy.
6. Arson.
7. Wilful and unlawful destruction or obstruction of railroads, which endangers human life.
8. Crimes committed at sea :
 - (a) Piracy, as commonly known and defined by the law of nations, or by statute;
 - (b) Wrongfully sinking or destroying a vessel at sea or attempting to do so;
 - (c) Mutiny or conspiracy by two or more members of the crew or other persons on board of a vessel on the high seas, for the purpose of rebelling against the authority of the Captain or Commander of such vessel, or by fraud or violence taking possession of such vessel;
 - (d) Assault on board ship upon the high seas with intent to do bodily harm.
9. Burglary, defined to be the act of breaking into and entering the house of another in the night time with intent to commit a felony therein.
10. The act of breaking into and entering the offices of the Government and public authorities, or the offices of banks, banking houses, savings banks, trust companies, insurance and other companies, or other buildings not dwellings with intent to commit a felony therein.
11. Robbery, defined to be the act of feloniously and forcibly taking from the person of another goods or money by violence or by putting him in fear.
12. Forgery or the utterance of forged papers.

13. The forgery or falsification of the official acts of the Government or public authority, including Courts of Justice, or the uttering or fraudulent use of any of the same.

14. The fabrication of counterfeit money, whether coin or paper, counterfeit titles or coupons of public debt, created by National, State, Provincial, Territorial, Local or Municipal Governments, bank notes or other instruments of public credit, counterfeit seals, stamps, dies and marks of State or public administrations, and the utterance, circulation or fraudulent use of the above mentioned objects.

15. Embezzlement or criminal malversation committed within the jurisdiction of one or the other party by public officers or depositaries, where the amount embezzled exceeds two hundred dollars or Rumanian equivalent.

16. Embezzlement by any person or persons hired, salaried or employed, to the detriment of their employers or principals, when the crime or offense is punishable by imprisonment or other corporal punishment by the laws of both countries, and where the amount embezzled exceeds two hundred dollars or Rumanian equivalent.

17. Kidnapping of minors or adults, defined to be the abduction or detention of a person or persons, in order to exact money from them, their families or any other person or persons, or for any other unlawful end.

18. Larceny, defined to be the theft of effects, personal property, or money, of the value of twenty-five dollars or more, or Rumanian equivalent.

19. Obtaining money, valuable securities or other property by false pretences or receiving any money, valuable securities or other property knowing the same to have been unlawfully obtained, where the amount of money or the value of the property so obtained or received exceeds two hundred dollars or Rumanian equivalent.

20. Perjury or subornation of perjury.

21. Fraud or breach of trust by a bailee, banker, agent, factor, trustee, executor, administrator, guardian, director or officer of any company or corporation, or by any one in any fiduciary position, where the amount of money or the value of the property misappropriated exceeds two hundred dollars or Rumanian equivalent.

22. Crimes and offenses against the laws of both countries for the suppression of slavery and slave trading.

23. Wilful desertion or wilful non-support of minor or dependent children.⁴

24. Extradition shall also take place for participation in any of the crimes before mentioned as an accessory before or after the fact; provided such

⁴For an addition to list of crimes, see supplementary treaty of Nov. 10, 1936 (TS 916), *post*, p. 423.

participation be punishable by imprisonment by the laws of both the High Contracting Parties.

ARTICLE III

The provisions of the present Treaty shall not import a claim of extradition for any crime or offense of a political character, nor for acts connected with such crimes or offenses; and no person surrendered by or to either of the High Contracting Parties in virtue of this Treaty shall be tried or punished for a political crime or offense. When the offense charged comprises the act either of murder or assassination or of poisoning, either consummated or attempted, the fact that the offense was committed or attempted against the life of the Sovereign or Head of a foreign State or against the life of any member of his family, shall not be deemed sufficient to sustain that such crime or offense was of a political character; or was an act connected with crimes or offenses of a political character.

ARTICLE IV

No person shall be tried for any crime or offense other than that for which he was surrendered.

ARTICLE V

A fugitive criminal shall not be surrendered under the provisions hereof, when, from lapse of time or other lawful cause, according to the laws of the place within the jurisdiction of which the crime was committed, the criminal is exempt from prosecution or punishment for the offense for which the surrender is asked.

ARTICLE VI

If a fugitive criminal whose surrender may be claimed pursuant to the stipulations hereof, be actually under prosecution, out on bail or in custody, for a crime or offense committed in the country where he has sought asylum, or shall have been convicted thereof, his extradition may be deferred until such proceedings be determined, and until he shall have been set at liberty in due course of law.

ARTICLE VII

If a fugitive criminal claimed by one of the parties hereto, shall be also claimed by one or more powers pursuant to treaty provisions, on account of crimes committed within their jurisdiction, such criminal shall be delivered to that State whose demand is first received.

ARTICLE VIII

Under the stipulations of this Treaty, neither of the High Contracting Parties shall be bound to deliver up its own citizens.

ARTICLE IX

The expense of arrest, detention, examination and transportation of the accused shall be paid by the Government which has preferred the demand for extradition.

ARTICLE X

Everything found in the possession of the fugitive criminal at the time of his arrest, whether being the proceeds of the crime or offense, or which may be material as evidence in making proof of the crime, shall so far as practicable, according to the laws of either of the High Contracting Parties, be delivered up with his person at the time of surrender. Nevertheless, the rights of a third party with regard to the articles referred to, shall be duly respected.

ARTICLE XI

The stipulations of the present Treaty shall be applicable to all territory wherever situated, belonging to either of the High Contracting Parties or in the occupancy and under the control of either of them, during such occupancy or control.

Requisitions for the surrender of fugitives from justice shall be made by the respective diplomatic agents of the High Contracting Parties. In the event of the absence of such agents from the country or its seat of Government, or where extradition is sought from territory included in the preceding paragraphs, other than the United States or Rumania, requisitions may be made by superior consular officers. It shall be competent for such diplomatic or superior consular officers to ask and obtain a mandate or preliminary warrant of arrest for the person whose surrender is sought, whereupon the judges and magistrates of the two Governments shall respectively have power and authority, upon complaint made in accordance with the laws of the country demanded, to issue a warrant for the apprehension of the person charged, in order that he or she may be brought before such judge or magistrate, that the evidence of criminality may be heard and considered and if, on such hearing, the evidence be deemed sufficient to sustain the charge, it shall be the duty of the examining judge or magistrate to certify it to the proper executive authority, that a warrant may issue for the surrender of the fugitive.

In case of urgency, the application for arrest and detention may be addressed directly to the competent magistrate in conformity to the statutes in force.

The person provisionally arrested shall be released, unless within two months from the date of arrest in Rumania, or from the date of commitment in the United States, the formal requisition for surrender with the documentary proofs hereinafter prescribed be made as aforesaid by the diplomatic agent of the demanding Government or, in his absence, by a consular officer thereof.

If the fugitive criminal shall have been convicted of the crime for which his surrender is asked, a copy of the sentence of the court before which such conviction took place, duly authenticated, shall be produced. If, however, the fugitive is merely charged with crime, a duly authenticated copy of the warrant of arrest in the country where the crime was committed, and of the depositions upon which such warrant may have been issued, shall be produced, with such other evidence or proof as may be deemed competent in the case.

ARTICLE XII

In every case of a request made by either of the High Contracting Parties for the arrest, detention or extradition of fugitive criminals, the appropriate legal officers of the country where the proceedings of extradition are had, shall assist the officers of the Government demanding the extradition before the respective judges and magistrates, by every legal means within their power; and no claim whatever for compensation for any of the services so rendered shall be made against the Government demanding the extradition; provided, however, that any officer or officers of the surrendering Government so giving assistance, who shall, in the usual course of their duty, receive no salary or compensation other than specific fees for services performed, shall be entitled to receive from the Government demanding the extradition the customary fees for the acts or services performed by them, in the same manner and to the same amount as though such acts or services had been performed in ordinary criminal proceedings under the laws of the country of which they are officers.

ARTICLE XIII

The present Treaty shall be ratified by the High Contracting Parties in accordance with their respective constitutional methods and shall take effect on the date of the exchange of ratifications which shall take place as soon as possible.

ARTICLE XIV

The present Treaty shall remain in force for a period of ten years, and in case neither of the High Contracting Parties shall have given notice one year before the expiration of that period of its intention to terminate the Treaty, it shall continue in force until the expiration of one year from the date on which such notice of termination shall be given by either of the High Contracting Parties.

In witness whereof the above-named Plenipotentiaries have signed the present Treaty and have hereunto affixed their seals.

Done in duplicate at Bucharest, this twenty-third day of July, nineteen hundred and twenty-four.

PETER A. JAY	[SEAL]
I. G. DUCA	[SEAL]

RELATED NOTE

The American Minister to the Minister of Foreign Affairs

No. 78

BUCHAREST, July 23, 1924

In signing today with His Excellency Mr. I. G. Duca, the Minister for Foreign Affairs of His Majesty the King of Rumania, the Treaty of Extradition which has been negotiated between the Government of the United States of America and the Royal Rumanian Government, the undersigned, Minister Plenipotentiary and Envoy Extraordinary of the United States of America at Bucharest, provided with full powers from his Government for the conclusion of this Treaty, has the honor to confirm by this Note to the Royal Rumanian Government the assurance that the death penalty will not be enforced against criminals delivered by Rumania to the United States of America for any of the crimes enumerated in the said Treaty, and that such assurance is, in effect, to form part of the Treaty and shall be mentioned in the ratifications of the Treaty.

In order to make this assurance in the most effective manner possible, it is agreed by the Government of the United States that no person charged with crime shall be extraditable from Rumania to the United States, upon whom the death penalty can be inflicted for the offense charged by the laws of the country where the trial is pending.

This agreement on the part of the United States will be mentioned in the ratifications of the Treaty and will, in effect, form part of the Treaty.

PETER A. JAY
American Minister

His Excellency
Mr. I. G. DUCA
*Minister for Foreign Affairs
of His Majesty the King of
Rumania*